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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,151	06/13/2001	Anders Stenberg	010315-104	4114

7590 10/18/2007  
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EXAMINER
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ANDERSON, CATHARINE L

ART UNIT	PAPER NUMBER
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3761

MAIL DATE	DELIVERY MODE
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10/18/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/879,151

Applicant(s)

STENBERG, ANDERS

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5-11 and 19-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-11 and 19-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 31 July 2007 have been fully considered but they are not persuasive.

In response to the applicant's argument that Summers fails to disclose a strip part having a different color than the remaining part of the backsheet, it is noted that the strip part of Summers is transparent (i.e. colorless), and therefore does not have the same color as the remaining part of the backsheet.

In response to the applicant's argument that Summers fails to disclose the strip providing an indication of a product type, it is noted that the present claims do not positively recite an indicia disposed on the strip, and therefore the limitation merely discloses a functionality of the strip. Since the claimed strip does not comprise an indicia but merely provides an indication, the strip of Summers fulfills the claimed limitation since it is capable of providing the same function.

In response to the applicant's argument that Cammarota fails to disclose a printed symbol being an indication of size, it is noted that nonfunctional printed matter does not distinguish a claimed product from the prior art (see MPEP 2112.01, III). Since the only difference between the article of Cammarota and the claimed product is the content of the printed matter, and the printed matter does not provide a new and unobvious functional relationship between the printed matter and the article, Cammarota anticipated the claimed invention.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 5-6, 8-9, 19-20, and 22-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Summers (3,952,746).

With respect to claims 1-2, Summers discloses an absorbent article, as shown in figure 1, comprising a topsheet 17, a backsheet 16, and an absorbent body. The backsheet 16 comprises a strip part 52 and a remaining part 16, as shown in figure 8, the strip part 52 being transparent and therefore having a different color than the remaining part 16, as disclosed in column 4, lines 63-65. A wetness indicator 54 is arranged inside of the backsheet 16 on the strip part 52, as shown in figure 8. The wetness indicator 54 is arranged in a pattern comprising a plurality of wetness indicators 54, as shown in figure 6, and is visible through the backsheet 16 at strip part 52. The strip part 52 is fully capable of performing the function of providing an indication the size or total absorption capacity of the article.

With respect to claims 5 and 19, the strip extends over the entire length of the article, as shown in figure 6.

With respect to claims 6 and 20, the strip extends in part in the transverse direction of the article at a line where the article is folded during positioning of the article, as shown in figure 2.

With respect to claims 9 and 23, the article is a diaper, as shown in figure 2.

With respect to claim 17, the wetness indicator 54 is disposed on the strip 52, as shown in figure 8.

With respect to claim 18, a portion of the wetness indicator 54 is disposed on the remaining part of the backsheet 16, as shown in figure 8, which is not covered by the strip 52.

Claims 1-2, 5-11, and 19-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Cammarota et al. (6,307,119).

With respect to claim 1, Cammarota discloses an absorbent article comprising a liquid pervious topsheet 42, a liquid impervious backsheet 40, and an absorbent body 44. The liquid impervious backsheet 40 comprises a strip part 72, as shown in figure 1, the strip part 72 being integral and having a different color than the backsheet 40. A wetness indicator 66 is arranged on an inside of the backsheet 40, as disclosed in column 16, lines 29-31, and is applied adjacent the strip part 72, as shown in figure 1. Since the wetness indicator 66 is located adjacent the strip part 72, the strip part 72 is

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fully capable of facilitating location of the wetness indicator 66 due to their proximity to one another.

With respect to claim 2, Cammarota discloses an embodiment having the strip part 72 located on a separate strip of material 112 fastened on the inside of the backsheet 110, as shown in figure 9B. A plurality of wetness indicators 66 are arranged on the inside of the backsheet 110 and are visible through the backsheet 110, as disclosed in column 21, lines 41-48, and are applied adjacent the strip part 72, as shown in figure 1. Since the wetness indicator 66 is located adjacent the strip part 72, the strip part 72 is fully capable of facilitating location of the wetness indicator 66 due to their proximity to one another. The strip 72 is fully capable of performing the function of providing an indication of the size or total absorption capacity of the article.

With respect to claims 5 and 19, the strip 72 extends at least an essential part of the length of the article, as shown in figure 1.

With respect to claims 6 and 20, the strip 72 has a dimension in the transverse direction of the article, and the article is fully capable of being folded along the strip 72.

With respect to claims 7, 10, 11, 21, 24, and 25, the wetness indicator 66 has a width of between about 1.5 cm and 3 cm, as disclosed in column 11, lines 25-27. The strip 72 has a width of approximately the size of the wetness indicator 66, as shown in figure 1, and therefore has a width within the range of 1 cm to 8 cm.

With respect to claims 8 and 22, the article further comprises printed symbols "big boy" or "big girl," as disclosed in column 7, lines 13-14, which are capable of indicating the size or type of the product.

With respect to claims 9 and 23, the article is a diaper or incontinence guard.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 10-11, 21, and 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Summers (3,952,746).

Summers discloses all aspects of the claimed invention with the exception of the width of the strip. It would have been obvious to one of ordinary skill in the art at the time of invention to make the strip of Summers have a width of 1-8 cm, since it has been held that where the general conditions of the claims are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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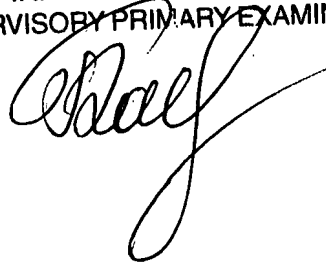
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CUA  
cla

October 12, 2007

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tatyana', written over the printed name and title.